

### REMARKS

Claims 1, 3-9, 11-15, 17-19, and 21-27 are currently pending in the subject application and are presently under consideration. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein.

#### **I. Rejection of Claims 1, 3-9, 11, 14-15, 17-19, and 21-24 Under 35 U.S.C.**

##### **§103(a)**

Claims 1, 3-9, 11, 14-15, 17-19, and 21-24 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Montgomery, Jr. (US 6,205,343) in view of Romans (US 6,564,074). It is requested that this rejection be withdrawn for at least the following reasons. Montgomery, Jr. and Romans, when taken alone or in combination, fail to teach or suggest all aspects recited in the subject claims. Moreover, the references teach away from combination, and any such attempt to combine can only be offered using hindsight bias, which is impermissible.

[T]he prior art reference (or references when combined) must teach or suggest all claim limitations. *See* MPEP §706.02(j). *See In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). *See In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). [W]hen the prior art teaches away from combining certain known elements, discovery of a successful means of combining them is more likely to be non-obvious. *See KSR v. Teleflex*, 550 U.S. \_\_\_, 127 S. Ct. 1727 (2007) *citing United States v. Adams*, 383 U. S. 39, 51-52 (1966). A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning. *See KSR v. Teleflex*, 550 U.S. \_\_\_, 127 S. Ct. 1727 (2007) *citing* *Graham v. John Deere Co. of Kansas City*, 383 U. S. 1, 36 (warning against a “temptation to read into the prior art the teachings of the invention in issue” and instructing courts to “guard against slipping into the use of hindsight”) (*quoting Monroe Auto Equipment Co. v. Heckethorn Mfg. & Supply Co.*, 332 F. 2d 406, 412 (CA6 1964))).

#### **Claim 1**

The claimed subject matter generally relates to facilitating selective power management in a wireless mobile terminal such that some portions of the terminal may remain powered and operable while removing power from components not being utilized.

In one example, a plurality of power management schemes, stored in a configuration bank, can be employed while ensuring continuous and uninterrupted network connectivity by maintaining power to components necessary to facilitate such connectivity (e.g., network radio, CPU, etc). By keeping power to the network radio, the mobile device can receive network communications, though other portions of the device are in a low or no power state, including information regarding controlling power of the device. To this end, claim 1 recites in part *a power management component that utilizes at least one power management scheme to selectively control power to at least one portion of the wireless mobile terminal while **maintaining** power to a central processing unit (CPU) and a network radio of the wireless mobile terminal to ensure reliable uninterrupted network communication while removing power from other portions of the wireless mobile terminal to reduce power consumption.* Montgomery, Jr. and Romans, alone or in combination, fail to teach or suggest such claimed aspects.

Montgomery, Jr. relates to a cordless telephone handset that can implement power management to conserve battery power. Specifically, the cordless telephone takes advantage of a communication protocol timing to remove power from a transceiver except during transmit and receive time intervals. (See column 2, lines 63-65, column 4, lines 37-46, and column 5, lines 20-32). Thus, Montgomery, Jr. fails to disclose or suggest ***maintaining power to a central processing unit (CPU) and a network radio of the wireless mobile terminal*** as recited in claim 1.

In the sections cited by the Examiner, Montgomery, Jr. appears to disclose removing power from portions of the cordless telephone during transmit intervals to reduce total peak voltage current as the transmit circuit is in use. (See column 4, lines 47-52 and column 5, lines 1-7). However, this is disclosed directly after the sections that describe reducing power consumption by supplying power to the transmit circuit only when needed during a transmit time interval. Contrarily, applicants' claims recite ***maintaining** power to the network radio.*

The Examiner contends, in the response to arguments, that maintaining power to the CPU and network radio is implicit in the reference's indication that the telephone is in communication with the system. (See page 12 of Office Action dated May 28, 2008). However, applicants' representative asserts that this is not indicative of maintaining full

power to the CPU and network radio, as recited in applicants' claims, because as contemplated by Montgomery, Jr., maintaining such power is not a requisite to remaining in communication as far as the system is concerned. Indeed, Montgomery, Jr. shows that the telephone can power the transmitter only during given time intervals to indicate that it is in communication with the system from the standpoint of the system. Such behavior, however, is directly contrary to applicants' claims that recite maintaining power to the CPU and network radio. For this reason as well as those above, Montgomery, Jr. fails to teach or suggest such aspects of claim 1. Romans fails to cure these deficiencies as well.

#### **Claim 14**

Similarly, claim 14 recites a method that manages power for a portable terminal including ***maintaining reliable uninterrupted portable terminal network connectivity at least by supplying full power to a CPU and a network radio.*** Thus, full power is supplied and maintained to ensure network connectivity. Montgomery, Jr. discloses directly opposite behavior of removing such power except during certain time transmit intervals as shown *supra*. Thus, it is apparent that Montgomery, Jr. fails to disclose or suggest all aspects of this claim; Romans is completely silent in this regard as well.

#### **Claim 19**

In addition, claim 19 recites a power management method that, in part, *employs the power management scheme to remove power from the portion of the wireless computing device while ***sustaining full power to the wireless computing device's central processing unit (CPU) and network radio to provide an uninterrupted channel of communication with a network.**** Again, full power is sustained to the CPU and network radio to ensure network connectivity. Montgomery, Jr. discloses directly opposite behavior of removing such power except during certain time transmit intervals as shown *supra*. Thus, it is apparent that Montgomery, Jr. fails to disclose or suggest all aspects of this claim as well, and Romans is also completely silent.

In view of the foregoing, it is readily apparent that Montgomery, Jr. and Romans fail to teach or suggest each and every aspect of claims 1, 14, and 19, and thus claims 3-9,

11, 15, 17-18, and 21-24, which depend therefrom. Therefore, rejection of these claims should be withdrawn.

Moreover, assuming *arguendo* that Montgomery, Jr. did contemplate maintaining power to a network radio, this would teach away from combination with Romans and such could only be accomplished using hindsight bias.

Romans relates to devices operating around a control point where the devices can be in an active or inactive power state, and the central point can transmit a beacon signal for which the devices move to an active state to receive. The central point beacon can comprise power information as well. However, if Montgomery, Jr. contemplated maintaining full power to a network radio and CPU, which it clearly does not as shown *supra*, it seems the wake-up beacon signals would have no effect on the device. Thus, this teaches away from combining the references. Furthermore, one would only seek to combine the inventions (if Montgomery, Jr. disclosed maintaining full power to the network radio and CPU) using hindsight bias as the wake-up beacons would be rendered worthless in this regard.

In response to the Examiner's note on hindsight bias being appropriate where it takes into account knowledge within the ordinary skill at the time of the invention unless it is gleaned from knowledge based on applicants' disclosure, applicants' representative asserts that the Examiner is gleaned knowledge based on applicants' disclosure in this case, as shown above. In particular, the power beacons utilized by Romans would not provide functionality for a device that maintains full power to a CPU and network radio (though Montgomery, Jr. does not teach maintaining full power). Therefore, the only reason to combine the references is based on hindsight bias in view of applicants' disclosure. This is not permissible combination under 35 U.S.C. §103. Thus, rejection of the claims should be withdrawn on these grounds as well.

## **II. Rejection of Claims 12 and 25 Under 35 U.S.C. §103(a)**

Claims 12 and 25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Montgomery, Jr. in view of Romans and Hetzler (US 5,954,820). It is respectfully requested that this rejection be withdrawn for at least the following reasons.

Montgomery, Jr., Romans, and Hetzler, when taken alone or in combination, fail to teach

or suggest all elements recited in the subject claims. In particular, Hetzler fails to make up for the aforementioned deficiencies of Montgomery, Jr. and Romans with respect to claims 1 and 24, from which claims 12 and 25 depend. Therefore, this rejection should be withdrawn.

**III. Rejection of Claim 13 Under 35 U.S.C. §103(a)**

Claim 13 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Montgomery, Jr. in view of Romans and Loughran (US 7,185,211). It is respectfully requested that this rejection be withdrawn for at least the following reasons.

Montgomery, Jr., Romans, and Loughran, when taken alone or in combination, fail to teach or suggest all elements recited in the subject claim. In particular, Loughran fails to cure the aforementioned deficiencies of Montgomery, Jr. and Romans with respect to claim 1, from which claim 13 depends. Therefore, this rejection should be withdrawn.

**IV. Rejection of Claim 26 Under 35 U.S.C. §103(a)**

Claim 26 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Montgomery, Jr. in view of Romans and Roy, *et al.* (US 2005/0041652). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Montgomery, Jr., Romans, and Roy, *et al.*, when taken alone or in combination, fail to teach or suggest all elements recited in the subject claim. In particular, claim 26 recites similar aspects as claim 1, namely ***maintaining full power*** to a CPU and a network radio to ensure reliable uninterrupted network communication. Montgomery, Jr. and Romans have been shown deficient in regard to these aspects. Roy, *et al.* fails to make up for the deficiencies of Montgomery, Jr. and Romans. Therefore, this rejection should be withdrawn.

**V. Rejection of Claim 27 Under 35 U.S.C. §103(a)**

Claim 27 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Montgomery, Jr. in view of Romans, Roy, *et al.*, and Hetzler. It is respectfully requested that this rejection be withdrawn for at least the following reasons. Montgomery, Jr., Romans, Roy, *et al.*, and Hetzler, when taken alone or in combination, fail to teach or

suggest all elements recited in the subject claim. In particular, Hetzler fails to cure the aforementioned deficiencies of Montgomery, Jr., Romans, and Roy, *et al.* with respect to claim 26, from which claim 25 depends. Therefore, this rejection should be withdrawn.

#### **CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [SYMBP193US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

AMIN, TUROCY & CALVIN, LLP

/Himanshu S. Amin/

Himanshu S. Amin

Reg. No. 40,894

AMIN, TUROCY & CALVIN, LLP  
24<sup>TH</sup> Floor, National City Center  
1900 E. 9<sup>TH</sup> Street  
Cleveland, Ohio 44114  
Telephone (216) 696-8730  
Facsimile (216) 696-8731